



# PROPOSED 2021 CHANGES TO STATE LAW PERTAINING TO VAD

# Technical and conforming changes

- Replaces references to “county” with “local Government administering voluntary agricultural district program.”
- Changes statutory reference for the definition of “agriculture” from the Ag Development Act to “bona fide farm purposes” as used in the newly recodified local government statutes.

# Clarifications

- Confirms that local governments control the minimum acreage required for a district
- Removes the phrase “protection from nuisance suits” and replaces with “decreases the likelihood of legal disputes, such as nuisance actions...”
- Confirms that County Commissioners have the ultimate authority to rule on establishment or modification of VADs but may delegate that authority to the Ag Advisory Board.
- Confirms that the Ag Advisory Board can be housed with an already existing government agency for the purpose of administration, recordkeeping and other related tasks or duties.
- Confirms that Ag Advisory Board shall approve the form of the required conservation agreement.

# Substantive Changes

- Removes requirement that each district have a representative on the Ag Advisory Board in favor of a general requirement of broadest possible geographical representation and representation of ag commodities produced in the county.
- Removes protection from liability for attorneys and realtors

These sections have been removed from the bill

# RECORD NOTICE OF PROXIMITY TO VAD OR EVAD

# State Law

- All counties shall require “some form of notice **reasonably calculated** to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or qualifying dairy farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.” N.C. General Statutes 106-741(a).
- “All counties shall require” language added in 2018 Farm Act. Prior language made it optional and only for counties with computerized land records.
- Pending legislation would remove all but the one-half mile of a voluntary agricultural district, and would specify that the distance is measure from the outermost property line.

# Notification Methods

- Deed Notation
  - District property
  - Properties in proximity to VAD or EVAD
  - Problems with Deed Notation
- Mapping – Signage in deed vault referring to maps
- Signing acknowledgment upon recordation of deed

# Legal Effect of Record Notice

- Nuisance Protection (?)
- Buyer's claims
  - Against seller
  - Against their own attorney
  - Against brokers
- Buyer's remedies
  - Rescission of Sales Contract
  - Damages



# Protection From Liability for Failure to Give Notice

- Lawyers - N.C. General Statutes 106-741(c)
- Realtors - N.C. General Statutes 106-741(d)
- County Personnel - N.C. General Statutes 106-741(b)

# 2021 Farm Act – Record Notice Provisions

- Measurement from Property Line
- Removal of Liability Protections